

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MR. JUSTICE C.V.RAMULU

WRIT PETITION NO : 19305 of 2003

Between:

M/s Laxmi Rice Mill (Formerly M/s Sri Santosh Rice Mill)

rep.by N.Ramulu s/o Late Kasaiah., aged 44 years.,

Occ.Business., Uppal., Ranga Reddy District.

..... PETITIONER

AND

1 Government of A.P. rep. by its Secretary EFS & T Dept.,

A.P. Secretariat, Hyderabad.

2 Member Secretary, A.P. Pollution Control Board., HUDA

Complex, Maitri Vanam, Sanjeevareddy Nagar,
Hyderabad.

3 Joint Chief Environmental Engineer, Zonal Office,

A.P. Pollution Control Board, 4th Floor, Collectorate Building,

Nampally, Hyderabad.

4 Appellate Authority Under Water (Prevention and Control of

Pollution Act, 1974 and Air (Prevention and Control
of Pollutions) Act, 1981 rep.by its Chief Ministerial Officer.,

Lakdikapool., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in dismissing the Appeal No.48 of 2002 and conforming the 3rd Respondent's Order No.202/PCB/TF-Hyderabad/2002-2542, dated 2-12-2002 as illegal, arbitrary, unreasonable, violative of Articles 14 and 19(1) (g) of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner: MR.A.RAVINDER REDDY

Counsel for Respondent No.2 & 3: Mr. S.V. Bhatt,

(S.C. for Pollution Control Board)

The Court made the following :

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ORAL ORDER:

The petitioner has challenged the orders passed by the appellate authority under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution Control) Act, 1981, which dismissed petitioner's appeal No.48 of 2002, and, thereby, confirmed the order passed by the 3rd respondent on 2.12.2002.

By the order passed by 3rd respondent on 2.12.2002, petitioner was ordered to stop

all industrial activities with effect from the date of the order as an emergency measure to stop the deterioration and damage to the environment, further pointing out that A.P.Transco has been ordered to disconnect power supply to petitioner-mill and continued activities will result in petitioner's prosecution. On the complaint received by the Commissioner, Uppal Kalan Municipality and the Secretary, Rajnagar Cooperative Housing Society Limited, Rajnagar, Uppal, Ranga Reddy District that petitioner was operating Rice Mill at H.No.1-49, Rajnagar Colony, Uppal, Ranga Reddy District and engaged in milling of 250-260 bags of paddy per day and that it was not having valid consent of the Board for operating rice mill in residential locality and the petitioner's activity was causing air pollution affecting health of the residents of surrounding residential area, the Board on 31.10.2002 and 5.11.2002 carried out inspection. It was found that Rice mill was located in thickly populated residential area surrounded by number of colonies; mill was operating without valid consent of the Board and the analysis report of the ambient air quality monitoring revealed that the values far exceeded the standards of the Board. Accordingly, notice was issued to the petitioner, and, legal hearing was afforded on 21.11.2002. During the Board's hearing also petitioner's attention was drawn that ambient air quality monitoring values far exceeded the Board's standard and, thus, the Committee recommended to issue closure orders of the industry. Petitioner did not take adequate measures to control air pollution from the rice mill. Therefore, on 2.12.2002, further orders were passed ordering to stop all industrial activity with immediate effect.

Petitioner preferred appeal against the order of the Board before appellate authority, which dismissed the appeal. Both the orders are under challenge in the Writ Petition.

Learned counsel for the petitioner vehemently contended that since petitioner's industry was not included in the category of 64 polluting small scale industries, the prior consent of the Board was not required under Water and Air (Prevention and Control of Pollution) Act. Only acknowledgement issued by the General Manager, District Industries Center, was sufficient, who was competent to issue permits for establishing rice mills and since rice mill had been established by obtaining necessary acknowledgement, action of respondents in ordering closure of the mill is bad in law.

No doubt, that rice milling industry is not included in the category of 64 polluting

small scale industries, for which, consent for establishment is required to be obtained from the Board. Nonetheless, it is an industry other than 64 polluting industries and acknowledgement issued by the District Industries Center is sufficient. But, mere issuance of acknowledgement by District Industries Center will not authorize any person or industry to act in a manner so as to cause air pollution. The moment activity undertaken by an individual or industry results in air pollution and the ambient air quality exceeds the Boards standards, the Board gets jurisdiction to issue necessary directions under the provisions of the Air (Prevention and Control of Pollution) Act, in exercise of its power under Section 31(A) of the said Act. Once such directions are issued, any person or authority to which such directions are issued is bound to comply with such directions. Petitioner's attention was drawn by the Board that the activity undertaken by it was such that it was causing air pollution and the ambient air monitoring values far exceeded Board's Standards. Accordingly, the Committee recommended to issue closure orders. Legal hearing was also afforded. It is not the petitioner's case that the ambient air quality monitoring values did not exceed Board's standards. As the ambient air quality monitoring values exceeded the Board's Standards, Board gets jurisdiction and rightly issued necessary directions. Directions, which can be issued under Section 31(A), also include direction for closure of industry, for which, petitioner has got ample opportunity to take adequate measures for controlling air pollution. Having failed to do so and having failed to comply with the directions, rightly, order was passed by the Board, which was rightly affirmed by the appellate authority, and, in exercise of writ jurisdiction, no interference is called for in such an order. Therefore, the Writ Petition is dismissed.

No doubt, sufficient time was allowed to the petitioner. But, as there was stay operating in this case, we direct that subject to petitioner's not operating the rice mill, six months time will be allowed by the respondent-Board to shift to new place, and, of course, operation at the place to which mill is to be shifted, will be conducted only after obtaining appropriate consent of the Board or acknowledgment from the District Industries Center. No costs.

DEVINDER GUPTA, C.J.

7.10.2004.

C.V.RAMULU, J.

VR.

To

1 The Secretary EFS & T Dept., Government of A.P.

Secretariat, Hyderabad.

2 Member Secretary, A.P. Pollution Control Board., HUDA

Complex, Maitri Vanam, Sanjeevareddy Nagar,
Hyderabad.

3 Joint Chief Environmental Engineer, Zonal Office,

A.P. Pollution Control Board, 4th Floor, Collectorate Building,

Nampally, Hyderabad.

4 The Chief Ministerial Officer, Appellate Authority Under

Water (Prevention and Control of Pollution Act, 1974 and Air

(Prevention and Control of Pollutions) Act, 1981

Lakdikapool., Hyderabad.

5 Two CD copies.